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TRAN, PHILIP B	
ART UNIT	**PAPER NUMBER**
2155	

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/773,885	FILLEBROWN ET AL.	
	Examiner	Art Unit	
	Philip B. Tran	2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 June 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15 and 20-27* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15 and 20-27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Notice to applicants

1. This is in response to an RCE and Amendment filed on 6/23/2006. Claims 26-27 have been newly added. Claims 16-19 have been previously canceled. Therefore, claims 1-15 and 20-27 are pending for further examination.

37 CFR 1.131 Affidavit

2. Applicant has submitted an affidavit on 24 October 2005 to remove Hiscock (U.S. Pat. No. 6,721,787). The affidavit filed on 24 October 2005 under 37 CFR 1.131 has been considered but is ineffective to overcome the Hiscock reference for the following reasons:

(A) The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Hiscock reference.

While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. *See* **Mergenthaler v. Scudder, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897).**

In the affidavit filed on 24 October 2005, applicant provides a document "Bluetooth Stategy Review". However, the examiner respectfully submits that it is not clear how the document teach applicant's claimed invention. Providing document

without further explanation only shows a vague idea and thus lacks support in the submitted evidence to establish a conception of the claimed invention.

(B) The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Hiscock reference to either a constructive reduction to practice or an actual reduction to practice.

What is meant by diligence is brought out in **Christie v. Seybold, 1893 C.D. 515, 64 O.G. 1650 (6th Cir. 1893).** In patent law, an inventor is either diligent at a given time or he is not diligent; there are no degrees of diligence. An applicant may be diligent within the meaning of the patent law when he or she is doing nothing, if his or her lack of activity is excused. Note, however, that the record must set forth an explanation or excuse for the inactivity; the USPTO or courts will not speculate on possible explanations for delay or inactivity. *See* **In re Nelson, 420 F.2d 1079, 164 USPQ 458 (CCPA 1970).** Diligence must be judged on the basis of the particular facts in each case. *See* **MPEP § 2138.06** for a detailed discussion of the diligence requirement for proving prior invention.

Under **37 CFR 1.131**, the critical period in which diligence must be shown begins just prior to the effective date of the reference or activity and ends with the date of a reduction to practice, either actual or constructive (i.e., filing a United States patent application). Note, therefore, that only diligence before reduction to practice is a material consideration. The "lapse of time between the completion or reduction to practice of an

invention and the filing of an application thereon" is not relevant to an affidavit or declaration under **37 CFR 1.131**. *See* **Ex parte Merz, 75 USPQ 296 (Bd. App. 1947).**

An applicant must account for the entire period during which diligence is required. **Gould v. Schawlow, 363 F.2d 908, 919, 150 USPQ 634, 643 (CCPA 1966)** (Merely stating that there were no weeks or months that the invention was not worked on is not enough.); *In re* **Harry, 333 F.2d 920, 923, 142 USPQ 164, 166 (CCPA 1964)** (statement that the subject matter "was diligently reduced to practice" is not a showing but a mere pleading). A 2-day period lacking activity has been held to be fatal. **In re Mulder, 716 F.2d 1542, 1545, 219 USPQ 189, 193 (Fed. Cir. 1983) (37 CFR 1.131 issue); Fitzgerald v. Arbib, 268 F.2d 763, 766, 122 USPQ 530, 532 (CCPA 1959)** (Less than 1 month of inactivity during critical period. Efforts to exploit an invention commercially do not constitute diligence in reducing it to practice).

In the affidavit filed on 24 October 2005, applicant provides a document "Bluetooth Stategy Review" without further explanation. However, the examiner respectfully submits that it is not clear how the provided document teach applicant's claimed invention. Applicant has not provided any evidence indicates that the invention was actually reduced to practice.

It does not appear the invention was reduced to practice as of the filing date of the Hiscock reference. Applicant must then show due diligence from before the Hiscock

reference until an actual reduction to practice or constructive reduction to practice. In this case, applicant has failed to provide this evidence to establish diligence from a date prior to the date of reduction to practice of the Hiscock reference to either a constructive reduction to practice or an actual reduction to practice.

(C) Regarding Reduction to Practice:

In general, proof of actual reduction to practice requires a showing that the apparatus actually existed and worked for its intended purpose. However, "there are some devices so simple that a mere construction of them is all that is necessary to constitute reduction to practice." *In re* **Asahi /America Inc., 68 F.3d 442, 37 USPQ2d 1204, 1206 (Fed. Cir.1995)** (*Citing* **Newkirk v. Lulejian, 825 F.2d 1581, 3USPQ2d 1793 (Fed. Cir. 1987) and Sachs v. Wadsworth, 48 F.2d 928, 929, 9 USPQ 252, 253 (CCPA 1931).** The claimed restraint coupling held to be so simple a device that mere construction of it was sufficient to constitute reduction to practice. Photographs, coupled with articles and a technical report describing the coupling in detail were sufficient to show reduction to practice.).

The affidavit or declaration and exhibits must clearly explain which facts or data applicant is relying on to show completion of his or her invention prior to the particular date. Vague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe a reduction to practice "amounts essentially to mere pleading, unsupported by proof or a showing of facts" and,

thus, does not satisfy the requirements of **37 CFR 1.131(b).** *In re* **Borkowski, 505 F.2d 713, 184 USPQ 29 (CCPA 1974).** Applicant must give a clear explanation of the exhibits pointing out exactly what facts are established and relied on by applicant. **505 F.2d at 718-19, 184 USPQ at 33.** See also *In re* **Harry, 333 F.2d 920, 142 USPQ 164 (CCPA 1964)** (Affidavit "asserts that facts exist but does not tell what they are or when they occurred.") [*See* **MPEP 715.07**].

"The nature of testing which is required to establish a reduction to practice depends on the particular facts of each case, especially the nature of the invention." **Gellert v. Wanberg, 495 F.2d 779, 783, 181 USPQ 648, 652 (CCPA 1974)** ("an invention may be tested sufficiently ... where less than all of the conditions of actual use are duplicated by the tests"); **Wells v. Fremont, 177 USPQ 22, 24-5 (Bd. Pat. Inter. 1972)** ("even where tests are conducted under bench' or laboratory conditions, those conditions must fully duplicate each and every condition of actual use' or if they do not, then the evidence must establish a relationship between the subject matter, the test condition and the intended functional setting of the invention," but it is not required that all the conditions of all actual uses be duplicated, such as rain, snow, mud, dust and submersion in water) [*See* **MPEP 2138.05**].

Applicant has provided some a document "Bluetooth Stategy Review" without further explanation to indicate that the invention was actually reduced to practice. However, the examiner respectfully submits that it is not clear how the a document

"Bluetooth Stategy Review" without further explanation are specifically teaching applicant's claimed invention. There is no discussion of claims as they relate to the evidence (a document "Bluetooth Stategy Review" without further explanation) provided (i.e., each of the independent claims 1, 21, 23 and 25) and how the limitations of those claims find support in the evidence provided.

For example, claim 1 recites "a personal wireless network comprising: a wireless server capable of executing any one of a plurality of software applications and generating from such execution a plurality of data packets for transmission in the network; a wireless client capable of wireless communication with the wireless server in accordance with at least one wireless communication protocol, the wireless client being configured to remotely access the software applications executed by the wireless server, and to process the data packets transmitted from the wireless server; and wherein the wireless server receives a data packet from the wireless client extracts data from the received data packet, and associates the extracted data with one of the software application." There is no clear explanation of the relationship between the claimed limitations (underlined) and evidence (a document "Bluetooth Stategy Review" without further explanation) provided.

Thus, the affidavit filed on 24 October 2005 is deemed insufficient to remove Hiscock reference as prior art because it merely contains a statement that a document entitled "Bletooth Strategy Review" which was prepared and distributed internally at Nextcell on or before 09 February 2000 and that the claimed invention, the subject matter of which is described and claimed in the above identified application, was

conceived prior to the effective date of the reference, and was diligently reduced to practice by all of the application's named inventors.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-3, 11, 13, 21 and 23 are rejected under 35 U.S.C. § 102(e) as being anticipated by Hiscock, U.S. Pat. No. 6,721,787.

Regarding claim 1, Hiscock teaches a personal wireless network (= wireless link (22) system) [see Fig. 1 and Col. 2, Line 60 to Col. 3, Line 12], comprising :

a wireless server (= hot-sync server (10)) [see Fig. 1 and Col. 2, Lines 60-66] capable of executing any one of a plurality of software applications and generating from such execution a plurality of data packets for transmission in the network [see Col. 3, Lines 34-43]; and

a wireless client capable of wireless communication with the wireless server in accordance with at least one wireless communication protocol, the wireless client being configured to remotely access the software applications executed by the wireless server, and to process the data packets transmitted from the wireless server and wherein the wireless server receives a data packet from the wireless client extracts data from the received data packet, and associates the extracted data with one of the software application (= one of personal digital assistance (PDA) (12) is coupled to the hot-sync server (10) by a wireless link (22) wherein the hot-sync server includes a wireless transceiver (46) for communicating with the PDA and the PDA also includes a wireless transceiver (36) for communicating with the hot-sync server and wherein software running in the server to allow exchanging packet data between the PDA and the server for establishing connection) [see Fig. 2 and Abstract and Col. 3, Lines 21-43 and Col. 4, Lines 5-60].

Regarding claim 2, Hiscock further teaches the wireless communication is implementable through a Bluetooth protocol (i.e., the PDA (12) and hot-sync server (10) communicate over a wireless link (22) using a wireless communication protocol referred to by the name "Bluetooth") [see Col. 2, Line 66 to Col. 3, Line 4].

Regarding claim 3, Hiscock further teaches the wireless communication is implementable through an IEEE 802.11 protocol (i.e., the PDA (12) and hot-sync server

(10) communicate over a wireless link (22) using a standard communication protocol such as IEEE standard 802.11) [see Col. 2, Line 66 to Col. 3, Line 2].

Regarding claim 11, Hiscock further teaches a second wireless client capable of wireless communication with the wireless server, and wherein both clients are capable of simultaneously accessing the same software application being executed by the server (= one of personal digital assistance (PDA) (12) is coupled to the hot-sync server (10) by a wireless link (22) wherein the hot-sync server includes a wireless transceiver (46) for communicating with the PDA and the PDA also includes a wireless transceiver (36) for communicating with the hot-sync server and wherein software running in the server to allow exchanging packet data between the PDA and the server for establishing connection) [see Fig. 2 and Abstract and Col. 3, Lines 21-43 and Col. 4, Lines 5-60].

Regarding claim 13, Hiscock further teaches the server is in communication with a Local Area Network (i.e., the hot-sync server is connected to the LAN) [see Col. 3, Lines 7-20].

Claims 21 and 23 are rejected under the same rationale set forth above to claim 1.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hiscock, U.S. Pat. No. 6,721,787 in view of Haartsen, U.S. Pat. No. 6,590,928.

Regarding claim 4, Hiscock does not explicitly teach the wireless communication is implementable at approximately 2.4 GHz. However, Hiscock does suggest the implementation of suitable wireless protocol for communication between server (hot-sync server (10)) and client (the PDA (12) over a wireless link (22) using a standard IEEE 802.11 protocol or a wireless communication protocol such as Bluetooth [see Col. 2, Line 66 to Col. 3, Line 4].

Haartsen, in the same field of wireless communication network endeavor, discloses wireless local area network (WLAN) using a standard IEEE 802.11 protocol wherein the system is operated in the 2.4 GHz band [see Haartsen, Col. 1, Line 40 to Col. 2, Line 40]. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the use of a standard IEEE 802.11 protocol wherein the system is operated in the 2.4 GHz band, disclosed by Haartsen, into the system of wireless communication network disclosed by Hiscock, in order to provide a short-range and low-cost wireless communication link for use between devices within a rather small local area such as in-home network.

Regarding claim 5, Hiscock does not explicitly teach the wireless communication is implementable at approximately 5.2 GHz. However, Hiscock does suggest the implementation of suitable wireless protocol for communication between server (hot-sync server (10)) and client (the PDA (12) over a wireless link (22) using a standard IEEE 802.11 protocol or a wireless communication protocol such as Bluetooth [see Col. 2, Line 66 to Col. 3, Line 4].

Haartsen, in the same field of wireless communication network endeavor, discloses High Performance Radio Local Area Network (HIPERLAN) using a standard IEEE 802.11 protocol wherein the system is operated in the 5.2 GHz band [see Haartsen, Col. 13, Lines 14-38]. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the use of a standard IEEE 802.11 protocol wherein the system is operated in the 5.2 GHz band, disclosed by

Haartsen, into the system of wireless communication network disclosed by Hiscock, in order to provide a short-range and low-cost wireless communication link for use between devices within a rather small local area such as in-home network.

7. Claims 6-7 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hiscock, U.S. Pat. No. 6,721,787 in view of Treyz et al (Hereafter, Treyz), U.S. Pat. No. 6,678,215.

Regarding claim 6, Hiscock does not explicitly teach the wireless communication is implementable through a HomeRF protocol. However, Hiscock does suggest the implementation of suitable wireless protocol for communication between the hot-sync server (10) and PDA (12) [see Hiscock,. Col. 2, Line 60 to Col. 3, Line 4].

Treyz, in the same field of wireless communication network endeavor, discloses in-home wireless network using wireless protocol such as a HomeRF protocol [see Treyz, Fig. 2 and Col. 9, Line 66 to Col. 10, Line 24 and Col. 10, Line 48 to Col. 11, Line 12]. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the use of HomeRF protocol, disclosed by Treyz, into the system of wireless communication network disclosed by Hiscock, in order to provide a short-range and low-cost wireless communication link for use between devices within a rather small local area such as in-home network [see Treyz, Col. 10, Lines 20-24 and Col. 11, Lines 1-12].

Regarding claim 7, Hiscock does not explicitly teach the wireless communication is implemented through a plurality of wireless protocols. However, Hiscock does suggest the implementation of suitable wireless protocol for communication between the hot-sync server (10) and PDA (12) [see Hiscock, Col. 2, Line 60 to Col. 3, Line 4].

Treyz, in the same field of wireless network communication endeavor, discloses in-home wireless network using a variety of wireless protocols [see Treyz, Fig. 2 and Col. 9, Line 66 to Col. 10, Line 24 and Col. 10, Line 48 to Col. 11, Line 12]. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the use of a variety of wireless protocols, disclosed by Treyz, into the system of wireless communication network disclosed by Hiscock, in order to provide a short-range and low-cost wireless communication link for use between devices within a rather small local area such as in-home network [see Treyz, Col. 10, Lines 20-24 and Col. 11, Lines 1-12].

Regarding claim 14, Hiscock does not explicitly teach the server is an Internet-enabled device. However, Hiscock does suggest the implementation of suitable wireless protocol for communication between the hot-sync server (10) and PDA (12) [see Hiscock, Col. 2, Line 60 to Col. 3, Line 4]. In addition, Hiscock further suggests the hot-sync server (10) may connect directly to the LAN or through other devices such as routers (not shown) [see Hiscock, Col. 3, Lines 7-9].

Treyz, in the same field of wireless network communication endeavor, discloses in-home wireless network using a variety of wireless protocols [see Treyz, Fig. 2 and

Col. 9, Line 66 to Col. 10, Line 24 and Col. 10, Line 48 to Col. 11, Line 12]. In addition, Treyz further discloses residential gateway (45) acting as a server in communication with wireless client devices (12) and extending connection to the Internet via cable modem or DSL link for downloading data. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to implement the server as an Internet-enabled device, disclosed by Treyz, into the system of wireless communication network disclosed by Hiscock, in order to enable the server extending data access to other networks as part of WAN for periodically obtaining data over the Internet in a relatively easy manner [see Treyz, Col. 11, Lines 1-22].

Regarding claim 15, Hiscock does not explicitly teach the server is a personal computer (PC). However, it would have been obvious to one skilled in the art to implement a personal computer as a server for communication with another computer or device as a client in the network.

8. Claims 8, 22 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hiscock, U.S. Pat. No. 6,721,787 in view of Jones et al (Hereafter, Jones), U.S. Pat. No. 6,108,314.

Regarding claim 8, Hiscock does not explicitly teach a wireless router being wirelessly coupled between the server and the client via a wireless protocol. However, Hiscock does suggest one of personal digital assistance (PDA) (12) is coupled to the hot-sync server (10) by a wireless link (22) wherein the hot-sync server includes a

wireless transceiver (46) for communicating with the PDA and the PDA also includes a wireless transceiver (36) for communicating with the hot-sync server [see Hiscock, Fig. 2 and Abstract and Col. 3, Lines 21-43]. In addition, Hiscock further suggests the hot-sync server (10) may connect to the LAN through other devices such as routers (not shown) [see Hiscock, Col. 3, Lines 7-9].

Jones, in the same field of wireless communication network endeavor, discloses the implementation of wireless router between devices such as subscriber devices and servers in the wireless network [see Jones, Fig. 1 and Col. 2, Line 40 to Col. 3, Line 3]. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the use of a wireless router, disclosed by Jones, into the system of wireless communication network disclosed by Hiscock, in order to perform routing protocols and handle transmission of different types of data [see Jones, Col. 3, Line 62 to Col. 4, Line 21]. Thus, various types of data can be efficiently transferred from one device to another in a wireless communication environment.

Claims 22 and 24 are rejected under the same rationale set forth above to claim 8.

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hiscock, U.S. Pat. No. 6,721,787 in view of Callaway, Jr. (Hereafter, Callaway), U.S. Pat. No. 6,711,380.

Regarding claim 9, Hiscock does not explicitly teach the client is a wireless smart client. However, Hiscock does suggest one of personal digital assistance (PDA) (12) is coupled to the hot-sync server (10) by a wireless link (22) wherein the hot-sync server includes a wireless transceiver (46) for communicating with the PDA and the PDA also includes a wireless transceiver (36) for communicating with the hot-sync server [see Hiscock, Fig. 2 and Abstract and Col. 3, Lines 21-43].

Callaway, in the same field of wireless communication network endeavor, discloses the implementation of a home wireless network connecting intelligent appliances [see Callaway, Col. 1, Lines 14-45]. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the use of wireless smart client (= intelligent appliance), disclosed by Callaway, into the system of wireless communication network disclosed by Hiscock, in order to create a "master-slave" environment in the wireless LAN for the piconet master (= one of controller device (11), (13), (15)) wirelessly controlling and managing all complex operations and program, such that the smart appliance (= slave microwave oven (10)) does little more than acts on very specific commands issued by the master device (for example, turns itself on and off) [see Callaway, Col. 3, Line 13 to Col. 4, Line 5]. Thus, this enables to establish an autonomous local area distributed network like "smart appliances" home network in a configuration that requires only low cost, low bandwidth communication techniques and only an occasional connection to a remote server or a master controller.

10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hiscock, U.S. Pat. No. 6,721,787 in view of McClard et al (Hereafter, McClard), "Unleashed : Web Tablet Integration into the Home", ACM, April 2000.

Regarding claim 10, Hiscock does not explicitly teach the client is a wireless tablet. However, Hiscock does suggest the implementation of clients as PDAs (12) [see Hiscock, Fig. 1 and Col. 2, Line 60 to Col. 3, Line 12].

McClard, in the same field of wireless communication network endeavor, discloses the implementation of client as a wireless tablet [see McClard, Page 1, Left column, third paragraph and Page 1, Right column, second & third paragraphs]. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the use of a client as a wireless tablet, disclosed by McClard, into the system of wireless communication network disclosed by Hiscock, in order to improve the portability aspect by allowing the user to be unchained and mobilized within a small local area such as in-home network [see McClard, Table 1 on Page 2].

11. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hiscock, U.S. Pat. No. 6,721,787 in view of Nevo et al (Hereafter, Nevo), U.S. Pat. No. 6,600,726.

Regarding claim 12, Hiscock does not explicitly teach the client is capable of wireless communication using a first wireless protocol and the second client is capable of wireless communication using a second wireless protocol. However, Hiscock does

suggest the implementation of suitable wireless protocol for communication between hot-sync server (10) and PDA (12) [see Hiscock, Col. 2, Line 60 to col. 3, Line 4].

Nevo, in the same field of wireless communication network endeavor, discloses one client or device is capable of operation using a first wireless protocol (= wireless network protocol A) and the second client or device is capable of operation using a second wireless protocol (= wireless network protocol B) [see Nevo, Fig. 1 and Col. 3, Lines 30-45 and Col. 4, Lines 36-59]. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the implementation of different devices capable of operation using different wireless protocols, disclosed by Nevo, into the system of wireless communication network disclosed by Hiscock, in order to enable a device handling concurrent wireless communication with multiple partners of different wireless communication protocols in a very efficient and low cost manner [see Nevo, Col. 1, Lines 58-60].

12. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hiscock, U.S. Pat. No. 6,721,787 in view of Thompson et al (Hereafter, Thompson), U.S. Pat. No. 6,484,011.

Regarding claim 20, Hiscock does not explicitly teach the wireless client is capable of reading a magnetic strip. However, Hiscock does suggest one of personal digital assistance (PDA) (12) is coupled to the hot-sync server (10) by a wireless link (22) wherein the hot-sync server includes a wireless transceiver (46) for communicating

with the PDA and the PDA also includes a wireless transceiver (36) for communicating with the hot-sync server [see Hiscock, Fig. 2 and Abstract and Col. 3, Lines 21-43].

Thompson, in the same field of wireless communication network endeavor, discloses the implementation of a wireless device having means for reading a magnetic stripe [see Thompson, Col. 10, Lines 19-21]. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the use of wireless device capable of reading a magnetic stripe, disclosed by Thompson, into the system of wireless communication network disclosed by Hiscock, in order to enhance the process of identification in an efficient manner by allowing a quick retrieval of coded information from the magnetic stripe using a portable and wireless device.

13. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hiscock, U.S. Pat. No. 6,721,787 in view of Gershman et al (Hereafter, Gershman), U.S. Pat. No. 6,356,905.

Regarding claim 25, Hiscock teaches a personal wireless network (= wireless link (22) system) [see Fig. 1 and Col. 2, Line 60 to Col. 3, Line 12], comprising:

a wireless server (= hot-sync server (10)) [see Fig. 1 and Col. 2, Lines 60-66] capable of executing any one of a plurality of software applications and generating from such execution a plurality of data packets for transmission in the network [see Col. 3, Lines 34-43]; and

a wireless client capable of wireless communication with the wireless server in accordance with at least one wireless communication protocol, the wireless client being

configured to remotely access the software applications executed by the wireless server, and to process the data packets transmitted from the wireless server and wherein the wireless server receives a data packet from the wireless client extracts data from the received data packet, and associates the extracted data with one of the software application (= one of personal digital assistance (PDA) (12) is coupled to the hot-sync server (10) by a wireless link (22) wherein the hot-sync server includes a wireless transceiver (46) for communicating with the PDA and the PDA also includes a wireless transceiver (36) for communicating with the hot-sync server and wherein software running in the server to allow exchanging packet data between the PDA and the server for establishing connection) [see Fig. 2 and Abstract and Col. 3, Lines 21-43 and Col. 4, Lines 5-60].

Though Hiscock discloses software (implicitly software applications) running on the server and executed by the processor as indicated, Hiscock does not explicitly disclose a multiple software applications. However, Gershman, in the same field of thin client and wireless server communication endeavor, discloses running and executing a plurality of software applications and modules on the server [see Col. 49, Line 16 to Col. 50, Line 27]. It would have been obvious to one of ordinary skilled in the art at the time of the invention was made to incorporate the teaching of Gershman into the teaching of Hiscock in order to explicitly point out that execution of multiple software applications on the server is known in the art for allowing smooth and efficient communication between client and server.

14. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hiscock, U.S. Pat. No. 6,721,787 in view of Gershman et al (Hereafter, Gershman), U.S. Pat. No. 6,356,905 and further in view of Jones et al (Hereafter, Jones), U.S. Pat. No. 6,108,314.

Regarding claim 26, Hiscock and Gershman do not explicitly teach a wireless router being wirelessly coupled between the server and the client via a wireless protocol. However, Hiscock does suggest one of personal digital assistance (PDA) (12) is coupled to the hot-sync server (10) by a wireless link (22) wherein the hot-sync server includes a wireless transceiver (46) for communicating with the PDA and the PDA also includes a wireless transceiver (36) for communicating with the hot-sync server [see Hiscock, Fig. 2 and Abstract and Col. 3, Lines 21-43]. In addition, Hiscock further suggests the hot-sync server (10) may connect to the LAN through other devices such as routers (not shown) [see Hiscock, Col. 3, Lines 7-9].

Jones, in the same field of wireless communication network endeavor, discloses the implementation of wireless router between devices such as subscriber devices and servers in the wireless network [see Jones, Fig. 1 and Col. 2, Line 40 to Col. 3, Line 3]. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the use of a wireless router, disclosed by Jones, into the system of wireless communication network disclosed by Hiscock, in order to perform routing protocols and handle transmission of different types of data [see Jones, Col. 3, Line 62 to Col. 4, Line 21]. Thus, various types of data can be efficiently transferred from one device to another in a wireless communication environment.

15. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hiscock, U.S. Pat. No. 6,721,787 in view of Gershman et al (Hereafter, Gershman), U.S. Pat. No. 6,356,905 and further in view of Jones et al (Hereafter, Jones), U.S. Pat. No. 6,108,314 and further in view of Treyz et al (Hereafter, Treyz), U.S. Pat. No. 6,678,215.

Regarding claim 27, Hiscock and Gershman and Jones do not explicitly teach the server is an Internet-enabled device. However, Hiscock does suggest the implementation of suitable wireless protocol for communication between the hot-sync server (10) and PDA (12) [see Hiscock, Col. 2, Line 60 to Col. 3, Line 4]. In addition, Hiscock further suggests the hot-sync server (10) may connect directly to the LAN or through other devices such as routers (not shown) [see Hiscock, Col. 3, Lines 7-9].

Treyz, in the same field of wireless network communication endeavor, discloses in-home wireless network using a variety of wireless protocols [see Treyz, Fig. 2 and Col. 9, Line 66 to Col. 10, Line 24 and Col. 10, Line 48 to Col. 11, Line 12]. In addition, Treyz further discloses residential gateway (45) acting as a server in communication with wireless client devices (12) and extending connection to the Internet via cable modem or DSL link for downloading data. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to implement the server as an Internet-enabled device, disclosed by Treyz, into the system of wireless communication network disclosed by Hiscock, in order to enable the server extending data access to other networks as part of WAN for periodically obtaining data over the Internet in a relatively easy manner [see Treyz, Col. 11, Lines 1-22].

Response to Arguments

16. Applicant's arguments have been fully considered but they are not persuasive because of the following reasons:

Applicant has submitted an affidavit on 24 October 2005 to remove Hiscock (U.S. Pat. No. 6,721,787). The affidavit filed on 24 October 2005 under 37 CFR 1.131 has been considered but is ineffective to overcome the Hiscock reference as prior art because it merely contains a statement that a document entitled "Bletooth Strategy Review" which was prepared and distributed internally at Nextcell on or before 09 February 2000 and that the claimed invention, the subject matter of which is described and claimed in the above identified application, was conceived prior to the effective date of the reference, and was diligently reduced to practice by all of the application's named inventors.

As a result, the examiner still applies Hiscock (U.S. Pat. No. 6,721,787) as a prior art for rejection purpose. The examiner maintains that cited prior art does disclose a system and method as broadly claimed by the applicant. Applicant has still failed to identify specific claimed limitations that would define a clearly patentable distinction over prior arts. Therefore, the examiner asserts that cited prior art teaches or suggests the subject matter recited in independent claims. Dependent claims are also rejected at least by virtue of dependency on independent claims and by other reasons shown above. Accordingly, claims 1-15 and 20-27 are respectfully rejected.

17. A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS ACTION IS SET TO EXPIRE THREE MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION. FAILURE TO RESPOND WITHIN THE PERIOD FOR RESPONSE WILL CAUSE THE APPLICATION TO BECOME ABANDONED (35 U.S.C. § 133). EXTENSIONS OF TIME MAY BE OBTAINED UNDER THE PROVISIONS OF 37 CAR 1.136(A).

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Tran whose telephone number is (571) 272-3991. The Group fax phone number is (571) 273-8300. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar, can be reached on (571) 272-4006.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Philip Tran

Philip B. Tran
Primary Examiner
Art Unit 2155
Sept 14, 2006